

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2020

CORAM :

THE HON'BLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.13538 of 2020

1. Balaraman
 2. Padmanaban
- ... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
All Women Police Station,
Arni, Thiruvannamalai District.
(Crime No.11 of 2019). Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners/accused nos.2 and 3 on bail pending investigation in Crime No.11 of 2019 on the file of the Respondent police.

For Petitioners : Mr.G.Saravanan

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 18.08.2020 for the offences punishable under Sections 376 of IPC, 3(a) r/w 4 of the Protection of Children from Sexual Offences Act, 2012, Sections 9 and 10 of Prohibition of Child Marriage Act, 2006 in Crime No.11 of 2019, seek bail.

2. The case of the prosecution as per the de facto complainant is that one Sathishkumar/Alcommitted penetrative sexual assault on the minor victim girl and thereafter, had also married her in a Temple. On intimation by the District Child Welfare Committee, a complaint was given to the respondent.

3. The learned counsel appearing for the petitioners would submit that the petitioners are arrayed as Accused No.2 and 3. He would submit that the first petitioner is the grandfather of the first accused and the second petitioner is the Poojari of the Temple. He would submit that there was a love affair between the victim and the first accused and that coming to know about the consensual sexual relationship between them, the mother of the victim given a complaint before the panchayatars and thereby, the first petitioner, being the grandfather of the first accused, in order to protect the interest of

the victim, arranged for a marriage and the marriage was conducted in the Temple. He would submit that the petitioners were informed by the mother of the victim that the victim had attained majority on the date of marriage, other than that, the petitioners have nothing to do with the alleged offence.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the victim was found in the company of A1 and thereafter, the mother of the victim made a complaint before the Panchayatara and marriage was conducted and later, coming to know about the age of the victim and based on the intimation given by the District Child Welfare Committee, a complaint has been registered by the respondent. He would submit that A1 is still in custody and that the statement under Section 164 of Cr.P.C has also been recorded from the victim. He would submit that the medical examination in respect of the first accused and the victim have been completed. However, he opposed to grant bail to the petitioners.

5. Taking into consideration of the facts and circumstances and that the petitioners are only the grandfather and the Poojari of the Temple, where the marriage was conducted, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute their own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

(b) the petitioners shall within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier execute two sureties each for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Judicial Magistrate, Arni, Thiruvannamalai District, failing which, the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioners shall report before the respondent Police everyday at 10.30 a.m. for a period of two(2) weeks and thereafter, every Monday at 10.30.a.m until further orders.

(e) the petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(h) On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)AIR SCW 5560];

(i) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-

02/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
ARNI, THIRUVANNAMALAI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARNI, THIRUVANNAMALAI DISTRICT.

4 THE OFFICER INCHARGE,
SUB JAIL, POLUR,
THIRUVANNAMALAI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

CC to M/S. G.SARAVANAN Advocate on payment of necessary charges

CRL OP.13538/2020

Date :02/09/2020

RVR 15/09/2020